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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,633	02/14/2002	Paul C. Sutton	2970	1701

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EXAMINER	
TRUONG, LECHI	
ART UNIT	**PAPER NUMBER**
2126	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/075,633	PAUL C.SUTTON, SEATTLE, WA	
	Examiner	Art Unit	
	LeChi Truong	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 February 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *03/12/2004* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. Claims 1-48 are presented for the examination.

Claim Rejections - 35 USC § 112

2. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 16, the term " persisting the results" was not described in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims **1-4, 6-8, 10-13, 17, 19-25, 26-37, 42-48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich et al (6,125,394) in view of Sashino et al (US. Patent 6,701,323 B2) and further in view of Sugimoto el al (US. Patent 6,839,723).

4. **As to claim 1,** Rabinovich teaches the invention substantially as claimed including: a controller (a selection unit/ a statistical unit, col 2, ln 54-58/ server 14, col 4, ln 39-44), set

comprising a grouping of at least one computing device (col 2, ln 49-52), maintaining at a controller at least one set (col 2, ln 55-58/ col 4, ln 40-44), providing at the controller a section corresponding to at least one computing device (col 2, ln 53-56/ col 4, ln 39-44), a job (task, col 1, ln 22-23/ col 5, ln 26-29), providing at the controller a job corresponding to at least one operation to perform on the selection(col 1, ln 20-23/ col 5, ln 24-29).

5. Rabinovich does not explicit teach sending a message, the message instructing the computing device that receives the message to execute the job, at the controller storing results of the job from each computing device. However, Sashino teaches sending a message (issuing a request message 700 in which a method name 730 is specified, the requirement for the server-run computer 200-1 or 220-b to execute the method, col 8, ln 6-10), the message instructing the computing device that receives the message to execute the job (a method name 730 form the request message 700 which is presented to identify the object to be invoked and the method to be excuted, col 3, ln 50-55), at the controller results of the job from each computing device(the client run computer receiving the result of method execution from the response sender 224-a on the server-run computer, col 10, ln 38-41).

6. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich and Sashino because Sashino's sending a message, the message instructing the computing device that receives the message to execute the job, at the controller storing results of the job from each computing device would provide the load balancing feature with easy addition and expansion of objects to run on a sever-run computer.

7. Rabinovich, Sashino do not explicit teach store result. However, Sugimoto teaches store result (the return information receiving area 60 is an area for storing the response message received from server, col 12, ln 12-15).

8. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich, Sashino and Sugimoto because Sugimoto's store result would save the return information for late user.

9. As to claim 2, Sashino teaches providing data corresponding to at least one set of computing device (col 3, ln 50-58).

10. As to claim 3, Sashino teaches a script to run on the selection (col 15, ln 22-28).

11. As to claim 4, Sashino teaches binary program (col 5, ln 1-5).

12. As to claim 6, Sashino teaches executing the job in response to the message (col 3, ln 55-59).

13. As to claims 7 and 8, they are apparatus claims of claims 3 and 4; therefore, they are rejected for the same reasons as claims 3 and 4 above.

14. As to claim 10, Sahino teaches the controller discovery information indicating that a node computing device is operational so as to be controlled by the controller (col 5, ln 40-45).

15. As to claim 11, Sahino teaches recognizing the node-computing device is already controlled by the controller (if there is not room, col 5, ln 40-45).

16. As to claim 12, Sahino teaches recognizing that the node computing the controller does not control device, and controlling the node-computing device (col 6, ln 20-24).

17. As to claim 13, Sahino teaches adding information identifying the node-computing device (col 6, ln 38-40), a data store maintained by the controller (col 4, ln 56-60).

18. **As to claim 17,** it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Sahino teaches each device object identifying a computing node (col 4, ln 40-42), each set object identifying a group (col 2, ln 50-55), each computing node group together via a set object (col 4, ln 50-56).

19. **As to claim 19,** Rabinovich teaches adding a device to a set (col 5, ln 4-7).

20. **As to claim 20,** Rabinovich teaches removing a device from a set (col 5, ln 40-45).

21. **As to claim 21**, Rabinovich teaches running a job on the set (col 1, ln 21-24).

22. **As to claim 22,** Rabinovich teaches the device object includes association to other objects (col 2, ln 50-53).

23. **As to claim 23,** Sahino teaches a job invocation object that is created wherein when the job is executed (col 3, ln 50-55).

24. **As to claim 24**, Sahino teaches an alerts object for communicating information from computing node the to the controller (col 3, ln 47-50).

25. **As to claim 25,** it is an apparatus claim of claims 1 and 17; therefore, it is rejected for the same reasons as claims 1 and 17 above. In addional, Sashino teaches agent software (the object invocation unit, col 3, ln 55-59/ Fig. 1), a transport (col 3, ln 20-27).

26. **As to claim 26**, Sugimoto teaches interface configured to provide access to information in the data store (col 12, ln 16-21).

27. **As to claim 27**, Sahino teaches an execution engine at the node computer, the agent software communicating with the execution engine to perform the at least one-operation corresponding to the job (col 3, ln 53-59).

28. **As to claims 28-29**, they are apparatus claims of claims 3, 4; therefore, they are rejected for the same reasons as claims 3, 4 above.

29. **As to claims 30-33,** Sashino teaches special operation, a reboot operation; suspend operation, shutdown operation (col 3, ln 50-55/ Fig. 6).

30. **As to claims 34-35,** they are apparatus claims of claims 10, 14; therefore, they are rejected for the same reasons as claims 10, 14 above

31. **As to claims 36, 37,** Rabinovich teaches each node includes a discovery component for automatically providing the discovery information, each node automatically provides the discovery information following a reboot of that node (col 5, ln 40-46).

32. **As to claim 42,** Rabinovich teaches defining a set (col 2, ln 50-53), editing the set to add at least one controlled computing device to the set (col 2, ln 65-67/ col 5, ln 4-7), storing the set (col 4, ln 45-50/ ln 57-60), at the controller, using the set to control each controlled computing device of the set (col 5, ln 4-8).

33. **As to claim 43,** Rabinovich teaches editing the set to remove at least one controlled computing device from the set (col 5, ln 4-8).

34. **As to claim 44,** Rabinovich teaches defining a set comprises, identifying a set object (col 2, ln 54-56).

35. **As to claim 45**, Rabinovich teaches calling a method of the set object (col 5, ln 26-29).

36. **As to claim 46,** Rabinovich teaches storing the set on a data store accessible to the controller (col 4, ln 40-49).

37. **As to claim 47,** Rabinovich selecting the set (col 2, ln 54-58), and instructing the controller to perform an operation to the set (col 4, ln 39-45), the controller communicating with each computing device in the set to request performance of the operation (col 5, ln 26-29).

38. **As to claim 48**, Sugimoto teaches store result (the return information receiving area 60 is an area for storing the response message received from server, col 12, ln 12-15).

39. Claims **5, 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich et al (6,125,394) in view of Sashino et al (US. Patent 6,701,323 B2) in view of Sugimoto el al (US. Patent 6,839,723) as applied to claim 1 above and further in view of Toga (US. Patent 5,987,504).

40. **As to claim 5,** Rabinovich, Sashino and Sugimoto do not explicit teach a network address. However, Toga teaches a network address (user@company.com sz>1000, fig. 4).

41. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich, Sashino, Sugimoto and Toga because Toga's network address would allow for delivery of data or information between a server and client user that overcomes the aforementioned problems.

42. **As to claim 9,** Toga teaches retrieving the program based on a network address in the message (col 3, ln 64-68).

43. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich et al (6,125,394) in view of Sashino et al (US. Patent 6,701,323 B2), in view of Sugimoto el al (US.

Patent 6,839,723) as applied to claim 1 above and further in view of Choquier et al (US. Patent 5,774,668).

44. **As to claim 14**, Rabinovich, Sashino and Sugimoto do not teach automatically configuring the node-computing device based on receiving the discovery information. However, Choquier teaches configuring the node-computing device based on receiving the discovery information (If the average load is greater than the predetermined maximum, a server 120 will be added to the service group, col 24, ln 25-30).

45. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich, Sashino, Sugimoto and Choquier because Choquier's automatically configuring the node computing device based on receiving the discovery information would allow additional servers to be efficiently added to the network.

46. Claim **15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich et al (6,125,394) in view of Sashino et al (US. Patent 6,701,323 B2) in view of Sugimoto el al (US. Patent 6,839,723) as applied to claim 1 above and further in view of Ludwig et al (6,789,105 b2).

47. **As to claim 15,** Rabinovich, Sahino and Sugimoto do not teach collecting the results in storage. However, Ludwig teaches collecting the results in a storage (the resulting information is stored in the conventional file that can late be retrieved, col 28, ln 65-67).

48. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich, Sashino, Sugimoto and Ludwig. Because,

Ludwig's collecting the results in storage would allow for storing and replaying a user's interface actions.

49. Claims **16, 18, 38-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich et al (6,125,394) in view of Sashino et al (US. Patent 6,701,323 B2) in view of Sugimoto el al (US. Patent 6,839,723) as applied to claim 1 above and further in view of C. Mohan (Exotica: A Project on Advanced Transaction Management and Workflow System).

50. As to claim 16, Rabinovich, Sahino and Sugimoto do not teach persisting results. However, Mohan teaches persisting results (record in stable storage the results, sec: 3.4, ln 8-9).

51. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich, Sashino, Sugimoto and Mohan. Because, Mohan's persisting results would make communication between client and server more consistent.

52. As to claim 18, Mohan teaches job log object (sec: 3.4, ln 8-9).

53. As to claim 38, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Mohan teaches logging the result (section: 3.4, ln 8-9).

54. As to claim 39, Rabinovich teaches arranging the plurality of computing devices into the set (col 6, ln 39-42).

55. As to claim 40, Sugimoto teaches analyzing the result (col 3, ln 1-4).

56. Claim **41** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich et al (6,125,394) in view of Sashino et al (US. Patent 6,701,323 B2) in view of Sugimoto el al (US. Patent 6,839,723) as applied to claim 1 above and in view of Ludwig et al (6,789,105 b2) and further in view of Perlman et al (US. 5,978,381).

57. As to claim 41, Rabinovich, Sashino, Sugimoto and Ludwig do not teach the operation failed on a given computing device, requesting that performance of the operation be retried on that computing device (client devices receiving multicast data streams all suffer from 10 data errors, there will be 10 million retry requests to content sever 210, col 12, ln 59-66).

58. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Rabinovich, Sashino, Sugimoto, Ludwig and Perlman because Perlman's the operation failed on a given computing device, requesting that performance of the operation be retried on that computing device would provide more efficient correction of sporadic transmission errors.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (571) 272 3767. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR of Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

March 4, 2005

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